

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA	§	
	§	
V.	§	Criminal No. H-09-336
	§	
BRENT A. CARTER	§	
MICHAEL N. SWETNAM, JR.	§	

OBJECTIONS TO DEFENDANT CARTER’S EXHIBITS

The United States received the copies of Defendant Carter’s exhibits via federal express on April 14, 2010. The United States also received a copy of Defendant Carter’s objections to the United States’ exhibits on April 12.

The defendant has objected to some of the United States’ Exhibits which are then offered on defendant Carter’s exhibit lists. The United States requests the Court overrule these objections because the exhibits are being offered by both parties. The table below sets forth agreement between the United States and Defendant Carter’s exhibit lists:

Exhibit	Gov’s Exhibit	Carter’s Exhibit
BVI Letter	1C	88
\$425,000 Carter check	1G	66
True 2006-2007 Zurich Policy	2	53
Interim Insurance Binder w/ \$2.3 million premium	2A	51

\$2.3 million invoice	3	52
Altered 06-07 Zurich policy	4	85
Accounting distribution	4G	58
Letter to Vela from Swetnam (01/22/07)	4H	56
\$884,000 invoice	5	73
\$884,000 RAC Re policy	6	72
\$2.7 million check to Swetnam Insurance Services	6A	74
Interim Insurance Binder \$2.5 million premium	7	79
Altered \$2.3 million 07-08 Zurich Policy	8	54
True \$1.2 million 07-08 Zurich policy	8A	53
\$2.5 million invoice	8B	82
\$2.5 million check	8C	83
\$274,000 checks	8E-8H	86
Emails between Carter/Reagan/Smith/Swetnam	11 - because the order of this exhibit has been changed to chronology, it is unclear precisely which emails Carter is objecting to, but he is offering some of the same emails he has objected to:	45 (U.S. 11-1); 60 (U.S. 11-2); 71 (U.S. 11-11);

Moreover, there is no 12B in the United States' exhibit book or current Exhibit

list, so this objection is moot. The United States sent an email April 14, 2010 to attorney's for Brent Carter attempting to confer on the admissibility of exhibits without response. The United States requests that the Court overrule these objections.

The United States objections to defendant Carter's objections are as follows:

EXHIBIT NUMBER	EXHIBIT DESCRIPTION	OBJECTION
1	Valley Baptist Petition from Civil Suit	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
2	Valley Baptist internal email and memorandum discussing civil lawsuit (4/2008)	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
3	Valley Baptist memorandum (2/2008)	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
4	Valley Baptist Excess Loss Agreement (1993)	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402) Authentication (FRE 901)
5	Undated/unsigned Valley Baptist Self Insurance Trust Agreement	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402) Authentication (FRE 901)
6	Unsigned/undated Valley Baptist Self Insurance Plan	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402) Authentication (FRE 901)

7	Email from David Smith to Ward Cook (Valley Baptist) discussing Officer and Director Liability Policy	Hearsay (FRE 802) Irrelevant (FRE 403)
8	Email Between Brent Carter, Manny Vela, and Ward Cook Discussing a \$245,000 Payment to Zurich (Feb. 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)
9	April 2007 Letter from Swetnam to Springfield discussing windstorm insurance coverage	Hearsay (FRE 802) Irrelevant (FRE 403)
10	April 2007 Email from Swetnam to Cook (ccing David Smith and Brent Carter) discussing actuarial funding study	Hearsay (FRE 802) Irrelevant (FRE 403)
11	May 22, 2007 Emails between Manny Vela and Brent Carter (and others) discussing property insurance renewal	Hearsay (FRE 802) Irrelevant (FRE 403)
12	Email From Manny Vela telling recipient to include David Smith on phone call with Loraine Lewis	Hearsay (FRE 802) Irrelevant (FRE 403)

13	Emails concerning insurance renewal (June 2007)	None
14	Emails concerning insurance renewal (June 2007)	None
15	Internal Valley Baptist Emails concerning Windstorm Insurance (August 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)
16	Email concerning Valley Baptist earned premiums on Valley Baptist insurance (August 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)
17	August 2007 Email concerning Director and Officer's Renewal	Hearsay (FRE 802) Irrelevant (FRE 403)
18	August 2007 Emails discussing Zurich Umbrella Policy between David Smith and Hospital	None
19	Emails between Cook, Carter, and Swetnam (Sept. 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)
20	Email from Ward Cook to David Smith concerning policies (Feb. 2008)	None
21	Email from Ward Cook to David Smith concerning policies (Feb. 2008)	None

22	Internal Valley Baptist Concerning Insurance Renewal - May 31, 2007	Hearsay (FRE 802) Irrelevant (FRE 403)
23	Internal Valley Baptist emails about insurance renewal	Hearsay (FRE 802) Irrelevant (FRE 403)
24	Internal Valley Baptist emails about insurance renewal	Hearsay (FRE 802) Irrelevant (FRE 403)
25	Valley Baptist email to other insurance broker refusing to work with Swetnam	Hearsay (FRE 802) Irrelevant (FRE 403)
26	Engagement letter for Valley Baptist hiring company to review insurance program (Sept. 2004)	Hearsay (FRE 802) Irrelevant (FRE 403)
27	Valley Baptist Finance Committee Minutes (June 2005)	Hearsay (FRE 802) Irrelevant (FRE 403)
28	Valley Baptist Finance Committee Meeting Minutes (Aug. 2005)	Hearsay (FRE 802) Irrelevant (FRE 403)
29	Valley Baptist Finance Committee Meeting Minutes (Aug. 2005)	Hearsay (FRE 802) Irrelevant (FRE 403)
30	Valley Baptist Finance Committee Meeting Minutes (Sept. 2005)	Hearsay (FRE 802) Irrelevant (FRE 403)
31	Valley Baptist Finance Committee Meeting Minutes (April 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)

32	Valley Baptist Finance Committee Meeting Minutes (May 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)
33	Valley Baptist Finance Committee Meeting Minutes (May 2007)	Hearsay (FRE 802) Irrelevant (FRE 403)
34	Email from David Smith to Zurich seeking to continue business relationship after Swetnam's departure (Feb. 2008)	Hearsay (FRE 802) Irrelevant (FRE 403)
35	Swetnam Insurance License Print Out from Website	None
36	Property Record for Swetnam Insurance Services	None
37	Swetnam Insurance Services Premium Trust Account Document	Hearsay (FRE 802) Irrelevant (FRE 403)
38	2005 Carter W-2 from Swetnam Insurance Services	Hearsay (FRE 802) Irrelevant (FRE 403) Authentication (FRE 901))
39	2006 Carter W-2 (parts handwritten) from Swetnam Insurance Services	Hearsay (FRE 802) Irrelevant (FRE 403)
40	2007 Carter W-2 (parts handwritten) from Swetnam Insurance Services	Hearsay (FRE 802) Irrelevant (FRE 403)

41	Swetnam Resignation Letter (Sept. 2006)	Hearsay (FRE 802) Irrelevant (FRE 403)
42	Nov. 2007 between Cook and Swetnam concerning Swetnam resignation	Hearsay (FRE 802) Irrelevant (FRE 403)
43	Jan. 2008 email from David Smith to Swetnam and Joe Reagan concerning Zurich	None
44	Jan. 2008 email from Swetnam to David Smith concerning Valley Baptist	None
45	Jan. 2006 Carter email discussing Valley Baptist information	None
46	April 2007 letter regarding Core Insurance Marketing Summaries written by Swetnam addressed to Valley Baptist	Hearsay (FRE 802) Irrelevant (FRE 403)
47	Feb. 2008 emails between Carter and Swetnam concerning Valley Baptist insurance renewal	Hearsay (FRE 802)
48	Frank Crystal Report on Insurance Brokerage Services prepared for Valley Baptist Hospital (Jan. 2005)	Hearsay (FRE 802) Irrelevant (FRE 403)

49	Swetnam response to Frank Crystal Report (May 2005)	Hearsay (FRE 802) Irrelevant (FRE 403)
50	Documents associated 2006-2007 Zurich Policy	None.
51	2006-2007 Zurich binder listing false premium of \$2.1 million	None
52	\$2.3 million invoice sent to Valley Baptist for 2006-2007 Zurich policy	None
53	Zurich Policy for 2006-2007 listing true premium of \$1.4 million	None
54	Altered Zurich policy showing premium of \$2.3 million	None
55	Swetnam Email concerning Zurich relationship and letter given to Many Vela by Swetnam Insurance Services that lists Commissions	Objection to emails (Hearsay - FRE 802) (p. 1-2) No objection to letter (3-4)
56	Letter given to Many Vela by Swetnam Insurance Services that lists premium	None
57	Cashier's checks	None

58	Payment records for inflated Zurich policy	None
59	Texas Insurance Code § 225.001	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402) Improper Expert Testimony (FRE 702)
60	May 2006 Email from Swetnam to Reagan/Carter/Smith concerning Zurich property quote	None
61	Thompson/Swetnam emails re: Windstorm coverage (May 2006)	None
62	Thompson/Swetnam emails re: Windstorm coverage (May 2006)	None
63	Thompson/Swetnam emails re: Windstorm coverage (Aug. 2006)	None
64	Thompson/Swetnam emails re: Windstorm coverage (Aug. 2006)	None
65	Cover notes given to Valley Baptist Re: Windstorm coverage (2006-07)	None
66	\$425,000 Carter check	None
67	Swetnam letter to Springfield	None
68	Guarantor agreement	None
69	Carter letter on binders	None

70	Hospital Liability Proposal for Valley Baptist	None
71	Carter email (Aug 2007) concerning Valley Baptist coverage	None
72	07-08 Rac Re Windstorm Policy	None
73	07-08 Windstorm Invoice	None
74	\$2.7 million check to Swetnam	None
75	\$35k cashier's check	None
76	\$263,000 check to Swetnam	None
77	Springfield RAC Re letter	None
78	Zurich 07-08 policy documents	None
79	Smith Reagan billing document	None
80	Smith Reagan Interim Binder/TDI information	None
81	Smith Reagan Interim Binder/TDI information	Cumulative of exhibit 80 and altered with handwriting (FREs 403 and 1003)
82	\$2.5 million Zurich invoice	None
83	\$2.5 million check	None

84	\$1.2 million Zurich umbrella policy for 07-08 coverage	None
85	\$2.3 million altered Zurich umbrella policy for 07-08 coverage	None
86	\$274k Cashiers checks	None
87	Amended Petition from Civil Lawsuit (Swetnam vs. Carter)	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
88	BVI letter	None
89	Thompson emails	None
90	Swetnam Insurance License	None
91	BVI letter	None
92	Thompson email	None
93	Thompson emails	None
94	Valley Baptist Business Plan for Hospital and Professional Liability Insurance (2005)	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
95	GTC Business Plan for Professional Liability Insurance (2005)	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
96	Valley Baptist Excess Professional Liability Policy	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
97	VBHS Re LTD Documents	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)

98	BVI Insurance Act of 1994	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402) Improper Expert Testimony (FRE 702)
99	VBHS Re LTD Documents	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
100	VBHS Re LTD Documents	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
101	Thompson Emails	None
102	Quinn Resume	Hearsay (FRE 802)
103	Bank letter on Swetnam's character	Improper character evidence (FRE 404) Hearsay (FRE 802)
104	Reagan letter on Swetnam's character	Improper character evidence (FRE 404) Hearsay (FRE 802)
105	Loraine Lewis licenses	None
106	Loraine Lewis Licenses	None
107	Gary Beck Resume	Hearsay (FRE 802)
108	Deposition Question and Answer and other civil case documents	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)
109	Landmark documents	None
110	Ledger entry	Illegible Authentication (FRE 901)
111	Swetnam Reagan Producer Agreement	Hearsay (FRE 802) Confusing and Irrelevant (FREs 403 and 402)

112	McAllen Bank documents	None
113	Bank records and affidavit	Hearsay (FRE 802) on Affidavit No objection to underlying records
114	Smith-Reagan W-2	None
115	Restaurant memorial	Hearsay (FRE 802) Irrelevant (FRE 402)
116	Smith Regan webpages	Hearsay (FRE 802) Irrelevant (FRE 402)
117	Copy of two Carter Cashiers Checks IRS (Oct. 2007)	None
118	Charitable Contributions	Hearsay (FRE 802) Irrelevant (FRE 402)

Respectfully submitted,

JOSE ANGEL MORENO
United States Attorney

By: /s/ Ryan McConnell
Ryan McConnell
Assistant United States Attorneys
Southern District of Texas

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Government's Objections to Defendant Carter's Exhibits was sent via electronic mail to counsel for the above-listed defendants on the 14th day of April, 2010.

/s/ Ryan McConnell
Ryan McConnell
Assistant United States Attorney